

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 1317 of 2005

Between:

M.Muthaiah, s/o Narsaiah,
r/o 1-1-504/3/9, Sri Sai Nagar, Suryapet, Nalgonda District.

..... PETITIONER

AND

1 The Divisional Manager, APSRTC, Suryapet Division,

Suryapet, Nalgonda District.

2 The Depot Manager, APSRTC, Bus Depot,

Suryapet, Nalgonda District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or direction particularly one in the nature of WRIT OF CERTIORARI, quash the impugned proc.No.P2/62(17)/93-SRPT dated 22-06-1993 in withholding increment for a period of six months with permanent effect as confirmed by the 1st respondent vide proc.No.PA/19(29)/03-DVM SRPT, dated 10-02-2003 as illegal, arbitrary, unjust, and in violation of Reg.12(2) of APSRTC, C.C. & A Reg.1967 and consequently direct the respondents to restore the deferred increment alongwith all consequential benefits in the interest of justice and fair play.

Counsel for the Petitioner:MR.V.NARASIMHA GOUD

Counsel for the Respondent No.: MR.V.T.M.PRASAD

The Court at the stage of admission made the following :

ORDER:

The petitioner is working as a conductor in the respondent-corporation. He was issued a charge memo on 05-02-1993 for having committed certain cash and ticket irregularities and after receiving the explanation of the petitioner, the final orders were passed on 22-06-1993 imposing the penalty of withholding of one incremental stage for a period of six months with cumulative effect, which is a major penalty, the respondent passed the impugned order without conducting any enquiry as required under the rules. Challenging the proceedings dated 22-06-1993, the petitioner carried the matter in appeal before the 1st respondent, but the same was rejected. Aggrieved by the same, the present writ petition has been filed.

2. The learned counsel for the petitioner relied on a judgment of the Supreme Court in **Kulwant Singh Gill v. State of Punjab** wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without any enquiry. The petitioner therefore seeks to declare that the order is illegal and it is liable to be set aside.

3. The petitioner after receiving the adverse orders slept over the matter for a period of 2 years. There are laches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside, on account of long lapse of time in filing the writ petition and in view of the judgment of the Supreme Court in **Kulwant Singh Gill**(1 supra), I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as withholding increment for a period of six months without cumulative effect. The petitioner is not entitled for the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the date of this order. But, he is entitled to get increments on notional calculation from the date of this order to which he is entitled, as he had not been imposed penalty of reduction of one annual increment for six months without cumulative effect.

4. The writ Petition is accordingly disposed of with the above observations. In the circumstances, there shall be no order as to costs.

2nd February, 2005.

rns

To

1 The Divisional Manager, APSRTC, Suryapet Division,
Suryapet, Nalgonda District.

2 The Depot Manager, APSRTC, Bus Depot,
Suryapet, Nalgonda District.

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